

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NORTHERN TRUST BANK OF FLORIDA,
N.A., Trustee,

Plaintiff,

-v.-

ORDER
04-CV-5295 (DRH)

ESTATE OF CELIA KATES By Its Executor,
SANDRA BARASH and GLORIA KATES,

Defendants.

Appearances:

For the Plaintiff:

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022
By: Jay W. Freiberg

For the Defendants:

Philip Barash
6 Serenite Lane
Muttontown, NY 11791

HURLEY, District Judge:

On March 29, 2005, the Court entered an order directing Philip Barash and Sandra Barash to pay attorneys fees and costs to counsel for Plaintiff, pursuant to 28 U.S.C. § 1447©). The order provided that defendants Philip and Sandra Barash were jointly and severally liable for the payment of costs and fees. *Northern Trust Bank v. Estate of Celia Kates, et. al*, No. 05 CV 5295, slip op. at 2 (E.D.N.Y. Mar. 29, 2005).

By letter dated on or about April 4, 2005, Philip Barash asked the court to reconsider its prior order. In lieu of submitting written opposition and reply papers, the Court heard oral

arguments from both parties at a hearing held on April 22, 2005. At the hearing, Sandra Barash confirmed that she is named as an individual party in the captioned action¹ and was acting as such when she, together with the executor of Celia Kates' Estate, Philip Barash, improperly removed the action from the Palm Beach, Florida Probate Court to the Eastern District of New York. However, Philip Barash was acting in his representative capacity at the time and, accordingly, he should not have been personally charged with attorneys fees in the March 29th order. For that reason, the Court modifies its March 29th order and imposes the attorney's fees upon the Estate of Celia Kates and Sandra Barash, personally.

SO ORDERED.

Dated: Central Islip, N.Y.

May 2, 2005

_____/s_____
Denis R. Hurley,
United States District Judge

¹ The identity of the "Defendants" is not clear from the caption; one heading would suggest, erroneously as it develops, that Sandra Barash was the Executor of the Estate of Celia Kates. Thus, clarification was sought at the hearing as to her status.